

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MARYLAND

RIVERVIEW SNF, LLC

v.

ANTOINETTE FARINACCI

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: CIVIL NO. CCB-12-1067
: Bankruptcy Case No. 11-21811
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MEMORANDUM

Riverview SNF, LLC appeals from the Orders of Bankruptcy Judge Robert A. Gordon dismissing this case after death of the debtor (No. 24) and denying motion to reconsider (No. 44). Judge Gordon's rulings will be affirmed and the appeal will be denied.

Debtor Antoinette Farinacci, who had been sued in state court for an allegedly unpaid nursing home bill, which she disputed, filed a petition under Chapter 13 of the Bankruptcy Code while the state court case was pending. Ms. Farinacci died before her Chapter 13 plan was confirmed, and the bankruptcy court granted her counsel's motion for voluntary dismissal. Creditor Riverview objected and instead sought an involuntary conversion of Ms. Farinacci's case to Chapter 7.¹ After briefs and hearings, Judge Gordon found that conversion was not appropriate under 11 U.S.C. § 1307(g) and Fed. R. Bankr. P. 1016, at least in the absence of "cause" under 11 U.S.C. § 1307(c), such as bad faith or abuse of the bankruptcy process, which was not present. (*See* No. 54, Feb. 15, 2012 Hearing Trsp. at 11:19-13.4).

Case law is consistent with the bankruptcy court's ruling. *See In re Perkins*, 381 B.R. 530, 533 n.4 (Bankr. S.D. Ill. 2007); *In re Spiser*, 232 B.R. 669, 673 (Bankr. N.D. Texas 1999); *In re Jarrett*, 19 B.R. 413, 414 (Bankr. M.D.N.C. 1982). Upon *de novo* review, I find no error of law. *See In re Merry-Go-Round Enterprises, Inc.*, 400 F.3d 219, 224 (4th Cir. 2005) (stating standard of review). Nor do I find any abuse of discretion or clearly erroneous finding of fact.

¹ At issue appears to be the home Ms. Farinacci owned jointly with her son.

Id. Any error in granting the initial motion to dismiss without hearing from Riverview was cured by the full hearing on Riverview's motion to reconsider.

A separate Order follows.

Date: July 6, 2012

_____/s/
Catherine C. Blake
United States District Judge